

## **CHAPTER 8**

### **PERSONAL PROPERTY**

### **AGENDA AND OBJECTIVES**

#### **A. PRESENTATION TOPICS**

1. Definition of personal property.
2. Municipality that assesses personal property tax and person or entity assessed.
3. Personal property exemptions based on the legal forms of property owners.
4. Personal property exemptions for different types of corporations: business, manufacturing, utility, insurance and financial institutions.
5. Requirements for reporting taxable personal property and applying for abatement.
6. Personal property valuation methodology.
7. Centrally valued personal property.

#### **EXERCISE**

#### **B. SESSION OBJECTIVES**

1. Participants will understand how to distinguish between personal property and real estate for purposes of separate assessment and exemption.
2. Participants will learn the general statutory provisions concerning what personal property is subject to taxation; the circumstances in which any particular community can assess the tax; and which person or entity may be assessed.
3. Participants will learn the basic exemptions that apply to individuals, partnerships, corporations and other legal entities owning personal property.
4. Participants will understand the basic legal requirements for taxpayer reporting of taxable assets, the penalties associated with late-filing or non-filing, and the abatement procedures that apply to personal property tax.
5. Participants will be introduced to the basic method for valuing personal property.
6. Participants will learn the procedures used by the Department of Revenue to value pipelines and telephone utilities and the assessors' role in assessing that property.

# CHAPTER 8

## PERSONAL PROPERTY

### 1.0 OVERVIEW AND DEFINITIONS

#### 1.1 Tax Status

Personal property is taxable unless specifically exempted by law.<sup>1</sup> There are numerous exemptions depending on the ownership entity or use of the property.

#### 1.2 Personal Property Definition

Personal property is composed of goods, merchandise, equipment, tools, machinery, furniture, cash, securities, stocks, promissory notes, furnishings and effects and other movable property.

##### 1.2.1 Intangible Personal Property

All intangible personal property is exempt from local property taxation in Massachusetts.<sup>2</sup> Intangible personalty consists of items that have no intrinsic value themselves but are representative or evidence of value, *i.e.*, “paper” property such as stocks, bonds, cash, securities, promissory notes, trademarks, good will, franchises and copyrights.

##### 1.2.2 Tangible Personal Property

Tangible personal property is the only type of personalty subject to local property taxation in Massachusetts. Tangible personalty is property that has a physical form and is touchable.

#### 1.3 Distinguished from Real Estate

Real estate for local tax purposes is defined as land, buildings and things thereon or affixed thereto.<sup>3</sup> Tangible property is considered real estate, not personalty, if it is so firmly attached to the land, buildings or other real estate improvements that removing it would cause significant damage.

#### Example

**An above ground swimming pool not attached to a foundation is personal property. An in-ground swimming pool is part of the real estate.**

Some property not firmly attached to land may still be considered part of real estate rather than personal property because of its bulk, special design, intended permanence and use, *i.e.*, it is specifically designed for the particular real estate.

**Example**

**A crane used to haul ships out of the water into dry dock at a shipbuilding site is machinery, but is considered part of the real estate because of its size and special design for use at that particular site.**

**1.4 Separate Assessment**

Separate assessments are made for personal property and the real estate on which it is situated. The personal property assessment should ordinarily include all personal property the taxpayer owns that is taxable by the municipality.

**1.5 No Automatic Lien**

Unlike real estate, no lien attaches to personal property upon assessment of the tax. In order to perfect a lien on personal property, a warrant to collect must be issued by the collector, a warrant to distrain or commit must be issued by a court, and the collector must seize and distrain the taxpayer's property.<sup>4</sup>

**2.0 PERSONAL PROPERTY SUBJECT TO LOCAL TAXATION****2.1 Property Situated in Massachusetts**

All personal property owned by Massachusetts and non-Massachusetts residents and businesses that is situated in Massachusetts on January 1 is taxable, unless an exemption applies. To be situated in Massachusetts, the property must be physically located here on January 1 and that location must have some degree of permanence. Property owned by non-Massachusetts residents and businesses that is located temporarily in Massachusetts, such as property in transit, is not situated in Massachusetts and is not taxable.<sup>5</sup>

**Example**

**Personal property owned by a New York resident or business that is being shipped and is temporarily stored in Massachusetts on January 1 is not taxable because it is not situated here.**

**2.2 Property Owned by Massachusetts Domiciliaries**

All personal property owned by a Massachusetts resident or business that is temporarily located outside of Massachusetts on January 1 is taxable, unless an exemption applies.

**Examples**

**Personal property owned by a Massachusetts resident that is permanently located in New Hampshire at a second, summer home is not taxable because it is permanently located outside Massachusetts.**

**Personal property of a Massachusetts business that is temporarily located in Rhode Island on a particular job would be taxable, unless an exemption applies.**

### **3.0 PLACE ASSESSED**

#### **3.1 Property Situs**

The municipality where the property is situated on January 1 has the authority to assess the tax.<sup>6</sup> Property is situated in a particular municipality if it is physically located in the community on January 1 and is intended to remain there.

Property intended to be moved from location to location is deemed situated where the owner lives or has a principal place of business.<sup>7</sup>

#### **Example**

**The equipment of a construction company that is moved from site to site is situated in the municipality where the company is headquartered.**

#### **3.2 Transportation Machinery**

Machinery owned by business corporations for the interstate or intrastate transporting of people or goods, such as commercial airplanes, may be assessed by each municipality where the machinery is regularly located during the year.<sup>8</sup> The assessment must be fairly apportioned among the municipalities based upon the amount of time the machinery is located in each respective municipality. This provision does not apply to foreign corporations chartered outside the United States.

### **4.0 PERSON ASSESSED**

#### **4.1 Ownership**

As a general rule, personal property taxes are assessed to the owner of the property on January 1.<sup>9</sup> The property tax is an assessment on the ownership of property, and the owner's tax liability is measured by the value of that property.

An exception exists where the personal property is leased for profit or is machinery used in manufacture or supplying or distributing water, or is machinery used by a business corporation in the conduct of its business. The tax may be assessed in that case to the person or entity in possession of the property.<sup>10</sup>

#### **4.2 Partnerships**

Partnership property is assessed to the partnership in the partnership name. All of the partners are liable for the whole tax.<sup>11</sup>

**4.3 Joint Owners**

Jointly owned property may be assessed to one or more of the joint owners.<sup>12</sup>

**4.4 Deceased Owners**

Personal property of a deceased owner is assessed to the decedent's estate and after appointment, to the executor or administrator of the estate. Upon appointment, the executor or administrator becomes liable for the tax.<sup>13</sup>

**5.0 PERSONAL PROPERTY TAX EXEMPTIONS****5.1 Exemption Laws**

Most exemptions from personal property taxation appear in various clauses of General Laws Chapter 59, Section 5. However, a few are contained in other general laws and some are provided by court decisions. Exemptions are usually dependent on ownership, property type or property use. The exemption qualifying date as to ownership and other qualifying factors is January 1.<sup>14</sup>

**5.2 Alternative Assessment**

Some exemptions are not complete exemptions from any taxation. The owner of the property is subject to some other type of tax or assessment instead.

Exemptions of this type include the following property:

- Registered motor vehicles subject to the motor vehicle excise.<sup>15</sup>
- Boats subject to the boat excise.<sup>16</sup>
- Farm animals and machinery owned by farmers or minors involved with youth agricultural programs subject to the farm excise.<sup>17</sup>
- Manufactured homes in licensed parks subject to a monthly licensing fee.<sup>18</sup>
- Registered non-commercial airplanes subject to a registration fee.<sup>19</sup>

Another example is that corporations are exempt from local taxation on much of their personalty, but the exempted property is taxed at the state level as part of the corporate excise.<sup>20</sup> The coordination of these complementary provisions avoids double taxation of these assets.

**5.3 Local Acceptance Minimum Value Personal Property Tax Exemption**

A local option exemption for small personal property accounts applies only in municipalities that accept it. This option allows the municipality to establish a minimum fair cash value required for personal property accounts to be taxed, and to modify that value at a later time.<sup>21</sup> The minimum value cannot be more than \$10,000. Acceptance, the vote to initially fix the minimum valuation or to modify it in future years, is by majority vote of the legislative body, subject to local charter provisions.<sup>22</sup>

## 6.0 EXEMPTIONS FOR INDIVIDUALS

### 6.1 Overview

The primary exemptions for personal property owned by individuals, including persons operating businesses as sole proprietors, are found in General Laws Chapter 59, Section 5, Clauses 20 and 21.

They include (1) household furnishings and effects, (2) clothing, (3) farm utensils, (4) tools of the trade of a mechanic, (5) boats, fishing gear and nets worth \$10,000 or less of persons engaged exclusively in fishing and (6) some young farm animals. Individuals are also exempt from personal property taxes for property subject to an alternative tax or assessment. See Section 5.2 above.

### 6.2 Household Furnishings and Effects

Individuals are exempt from personal property taxation on all of their household furnishings and effects kept at their domiciles.<sup>23</sup>

#### 6.2.1 Definition

Household furnishings and effects “include any personal property which can reasonably be said to be part of the household, whether the household is of high or low estate and whether the occupants are impoverished or affluent.”<sup>24</sup> This means movable belongings and items commonly or ordinarily kept in or around the house or garage, such as furniture, appliances, collectibles, jewelry, yard implements, bicycles and household pets.

#### 6.2.2 Domicile

Domicile is the place where a person has his or her principal and legal home, is the place where family, social, civic and economic life is centered and where the person plans to return whenever he or she is away.

Indicators of domicile include where the person votes, registers a car, spends most of her time, replies to the census, files tax returns from and has ties to the community, such as where the person's spouse and children live and where memberships in churches, clubs and social organizations and where bank accounts are maintained.

### 6.3 Farming Utensils

Individuals are exempt from personal property taxation on all of their small tools and other non-motorized equipment used in farming or gardening.<sup>25</sup> Farming utensils do not include farm and non-farm machinery or vehicles.

### 6.4 Mechanic's Tools

Individuals who are mechanics are exempt from personal property taxation on all of their tools of the trade.<sup>26</sup>

**6.4.1 Tools of Trade**

The tools of a mechanic's trade consist of handheld, motorized and non-motorized tools capable of being held and operated by hand, such as drills, chainsaws and other handsaws.<sup>27</sup> They do not include heavier equipment, such as table saws, drill presses and lathes.

**6.4.2 Mechanic**

A mechanic is a worker, tradesman or small craftsman, such as a plumber, electrician, carpenter, seamstress or tree surgeon skilled in the use of tools.<sup>28</sup> A professional, such as a doctor or dentist, or an artist, such as a photographer, is not a mechanic.

**7.0 EXEMPTIONS FOR PARTNERSHIPS****7.1 Overview**

Partnerships are exempt from personal property taxation for property subject to an alternative tax or assessment. See Section 5.2 above.

All other personal property owned by a partnership is taxable.

**7.2 Partnership Definition**

Partnerships include limited partnerships and limited liability partnerships.<sup>29</sup>

**8.0 EXEMPTIONS FOR CORPORATIONS****8.1 Overview**

The primary exemptions for personal property owned by corporations registered to do business in Massachusetts are found in General Laws Chapter 59, Section 5, Clause 16.

Corporations are exempt from local taxation on all their personal property, except (1) poles, underground conduits, wires and pipes and (2) some machinery. The property within those two categories that is taxed depends on the type of corporation. See Sections 9, 10 and 11 below.

**8.2 Domestic and Foreign Corporations**

Corporations are divided into domestic and foreign companies. A domestic corporation is one incorporated under the laws of Massachusetts. A foreign corporation is one formed outside of Massachusetts, either in another state or country.

Except in the case of some foreign insurance corporations,<sup>30</sup> all exemptions that apply to domestic corporations also apply to foreign corporations registered to do business in the state.

### **8.3 Corporations Database**

Corporations are classified by type for state and local tax purposes by the Department of Revenue (DOR). Each year, DOR issues a list of corporations doing business in Massachusetts for use by local assessors.<sup>31</sup>

The corporations database lists the corporations by their classifications as of January 1. It is issued on or about April 1 for use in the fiscal year that begins on the next July 1. The taxpayer and assessors may appeal the classification to the Appellate Tax Board (ATB) by April 30, or 30 days after the list is issued, whichever is later. Subject to appeal, the assessors must follow the classifications found in the corporations database in assessing personal property taxes on machinery used in the conduct of business.<sup>32</sup>

## **9.0 EXEMPTIONS FOR BUSINESS CORPORATIONS**

### **9.1 Overview**

Business corporations are exempt from local taxation on all their personal property, except (1) poles, underground conduits, wires and pipes and (2) machinery used in the conduct of the business.<sup>33</sup> If the poles and wires are located on public ways, they are not taxable, however.<sup>34</sup>

### **9.2 Definitions**

#### **9.2.1 Business Corporation**

A business corporation is a corporation formed and operated for the pursuit of profit or gain through the transaction of business, in the widest sense of the term.

A corporation formed solely to obtain a property tax benefit, that is not in business to earn a profit utilizing the labor of employees is not entitled to the business corporation exemptions.<sup>35</sup>

#### **9.2.2 Machinery**

A machine is a mechanical device with fixed or moving parts performing a function, or its electronic equivalent. Machinery consists of machines or machine parts, considered as a group.

### **9.3 Machinery Used in the Conduct of Business**

A business corporation is taxable for machinery used in the conduct of business, except machinery that is:

- Stock in trade.
- Used directly in dry cleaning or laundering processes, to refrigerate goods or to air condition premises.
- Used directly in purchasing, selling, accounting or administrative functions.<sup>36</sup>



**9.3.1 Machinery Constituting Stock in Trade**

A business corporation is exempt from local taxation on any machinery it owns that is its stock in trade. Stock in trade is the inventory carried for sale or lease by a retail business in the ordinary course of its business.

**Example**

**A business corporation leases machines to others in the regular course of its business. The machines are its stock in trade whether the transaction is a true lease or an installment sale financed by the corporation. If the machines are the subject of an installment sale, they are owned by the “lessee” and are taxable unless the lessee is entitled to an exemption. In either case, the leasing corporation is not taxable for the machines since they are inventory held by the business for lease or sale.**

Machines consigned to a business corporation to sell are not owned by the business corporation and their taxable status depends on whether the consigning owner is entitled to an exemption.

**9.3.2 Machinery Used for Dry Cleaning, Laundering, Refrigeration and Air Conditioning**

A business corporation is exempt from local taxation on any machines it owns that are used directly in connection with dry cleaning or laundering processes, to refrigerate goods or to air condition premises. The exemption also applies to machinery used for these purposes that is built or integrated into a structure and might otherwise be considered part of the real estate.<sup>37</sup>

**9.3.3 Machinery Used in Selling or Purchasing Function**

A business corporation is exempt from local taxation on any machines it owns that are used directly in a selling or purchasing function.

**Examples**

**Cash registers, credit card readers and scanners used at the point of sale are used directly in the selling function and are exempt.**

**Vending machines and bill changers used to dispense and sell a tangible product are used in a selling function and are exempt.<sup>38</sup>**

**Machines used to provide entertainment for a fee, such as jukeboxes, pinball machines and video games, are not machinery directly used in a selling function, even though they accept money.<sup>39</sup>**

### 9.3.4 **Machinery Used in Accounting or Administrative Function**

A business corporation is exempt from local taxation on any machines it owns that are used directly in an administrative or accounting function. The machinery must be used in-house directly for the corporation's own internal record keeping purposes. Machinery used to store information, or produce reports or other documents for clients or customers, is machinery used in the conduct of business and is taxable. Telephones, typewriters, copiers, fax machines and computers often fall into this category of machinery, but could be taxable depending on the nature of the business. Machinery that performs both in-house and income producing functions is exempt only if primarily used for in-house functions.

#### **Examples**

**A computer owned and used by a design corporation to maintain its financial, payroll and other business records is exempt as accounting and administrative machinery. A computer owned by the corporation to produce designs for its clients is taxable as machinery used in the conduct of business.**

**A telephone owned by a corporate grocery store chain and used in its business is exempt as administrative machinery. A telephone owned and used by a telemarketer or polling corporation is taxable as machinery used in the conduct of business.**

## 10.0 **EXEMPTIONS FOR MANUFACTURING CORPORATIONS AND RESEARCH AND DEVELOPMENT CORPORATIONS**

### 10.1 **Overview**

Manufacturing corporations are exempt from local taxation on almost all of their personal property, except poles, underground conduits, wires and pipes.<sup>40</sup> If the poles and wires are located on public ways, however, they are not taxable except that poles and wires of electric generating or gas distribution companies are taxable as part of the generating or distribution machinery.<sup>41</sup> All machinery, both manufacturing and non-manufacturing, and all other personal property a manufacturing corporation owns, is exempt, except certain electric generating machinery.<sup>42</sup> This exemption applies even if the machinery is built or integrated into a structure and might otherwise be considered part of the real estate.<sup>43</sup>

In municipalities that accept local option exemptions, research and development corporations are treated as if they were manufacturing corporations for purposes of receiving the manufacturing corporation exemptions.<sup>44</sup> To apply for a fiscal year, acceptance must be voted before the January 1 assessment date. Acceptance is by majority vote of the legislative body, subject to local charter provisions.<sup>45</sup> Municipalities that accept the local options must notify DOR.

## 10.2 **Definitions**

### 10.2.1 **Manufacturing**

A corporation engages in manufacturing if it transforms raw or finished materials through human skill and knowledge into something with a new nature, a new name or a new use.

#### **Examples**

**Producing baked goods, creating magazines, books and pamphlets out of paper, and converting logs to lumber are manufacturing activities.**

**Breeding animals, constructing buildings, and transmitting television, radio or telephone signals are not manufacturing activities.**

### 10.2.2 **Research and Development**

Research and development includes experimental or laboratory activity having as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products and the development or improvement of methods for producing products. It does not include testing or inspection for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities or research in connection with literacy, historical or similar projects.

Research and development corporations must derive more than two-thirds of their receipts, or incur more than two-thirds of their expenditures, attributable to Massachusetts from research and development activity during the taxable year. In determining the amount of research and development activity of a company, all its manufacturing expenditures are excluded from the total, whether or not the manufacturing activity is substantial. Receipts from research and development include those from research and development services, royalties or fees from the licensing of patents, know-how or other technology developed from research and development.<sup>46</sup>

## 10.3 **Classification**

### 10.3.1 **Manufacturing Classification**

A corporation must apply for and receive manufacturing (“M”) classification from DOR in order to qualify for the manufacturing corporation exemptions.<sup>47</sup> The application must be made on Form 355Q and received on or before January 31 to qualify for exemption in the following fiscal year. The manufacturing component of the business must be substantial for DOR to approve the manufacturing classification.<sup>48</sup>

**10.3.2 Research and Development Classification**

Corporations engaged in research and development in communities that have accepted the local option research and development exemptions by the January 1 assessment date must apply for classification by January 31 on State Tax Form 355RD.<sup>49</sup>

**11.0 EXEMPTIONS FOR UTILITY, FINANCIAL INSTITUTION AND INSURANCE CORPORATIONS****11.1 Overview**

Incorporated utility, financial institution and insurance companies are exempt from local taxation on all their personal property, except (1) poles, underground conduits, wires and pipes and (2) machinery used in manufacture or in supplying or distributing water.<sup>50</sup> If the poles and wires are located on public ways, they are not taxable, unless they are owned by an electric or gas transmission and distribution corporation.<sup>51</sup>

**11.2 Utility Corporations**

Utilities include electric and gas transmission and distribution, telephone and telegraph, water, oil and natural gas pipeline, railroad and canal companies that are incorporated.<sup>52</sup> Incorporated cable television companies are not utilities.

**11.3 Financial Institutions**

Financial institutions include banks, mortgage, credit card and other lending companies or institutions. They must file an annual financial return with the Commonwealth and are separately identified in the Corporations Database issued by DOR. Credit unions are not included in that listing, but all their personal property is exempt from taxation.<sup>53</sup>

**11.4 Insurance Corporations**

A foreign insurance company receives the insurance corporation exemptions only if its incorporating state, or state of the principal place of business in the United States if incorporated in another country, allows similar property tax exemptions for Massachusetts insurance corporations.

**Example**

**The personal property of a New Hampshire insurance company receives the corporate exemptions because New Hampshire law provides the same exemptions for property owned by a Massachusetts insurance company. The personal property of a Connecticut insurance company is subject to local taxation in Massachusetts because Connecticut law does not provide the same exemptions for property owned by a Massachusetts insurance company.**

Mutual insurance holding companies are treated and taxed as business corporations. See Section 9 above.

## **12.0 LIMITED LIABILITY COMPANIES**

### **12.1 Overview**

A limited liability company (LLC) is a form of legal entity that allows for a choice of federal income tax treatment as a partnership, corporation or disregarded entity filing a consolidated return with a parent. The local tax status of the LLC usually depends on its federal tax classification.

### **12.2 Partnership**

An LLC that elects to be treated as a partnership for federal tax purposes is taxable on all its personal property.<sup>54</sup>

### **12.3 Corporation**

An LLC that elects to be treated as (1) a corporation for federal tax purposes, or (2) a disregarded entity and whose sole member is an S corporation, including a utility, financial institution or insurance company, is treated as a business corporation. See Section 9 above. It receives the same personal property tax exemptions available to an actual business corporation, except that it is taxable for any poles and wires located on public ways.

### **12.4 Disregarded Entities**

An LLC that elects to be treated as a disregarded entity and whose sole member is not an S corporation is not treated as a business corporation.<sup>55</sup> All of its personal property is taxable.

## **13.0 PERSONAL PROPERTY RETURNS**

### **13.1 Annual Filing Requirement**

All persons or entities owning taxable personal property on January 1 are legally required to file a list or return of those assets (Form of List) with the assessors of the city or town where the property is situated.<sup>56</sup> The return contains property schedules for the taxpayer to detail its assets.<sup>57</sup> The taxpayer should provide original cost and date of acquisition, but does not have to provide an estimate of value. The information provided is not binding on the assessors. The return must be signed under oath.

### **13.2 Filing Deadline**

The Form of List is due on or before March 1 prior to the fiscal year of the tax. The assessors may extend the filing date if the taxpayer shows a reasonable

excuse for not filing on time. The latest the assessors can extend the deadline is 30 days after the actual tax bill is issued.

### **13.3 Disclosure**

The information contained in the schedules is confidential and may only be inspected by the assessors, their staff and DOR, but may be shown to other persons by court order.<sup>58</sup> Other parts of the return are public records.

### **13.4 Penalties for Not Filing or Filing Late**

If a taxpayer owning taxable personal property does not file a return, the assessors must assess the tax based on their best information and belief and they cannot grant the taxpayer an abatement for overvaluation.<sup>59</sup>

If a taxpayer files a late return, the assessors may abate the tax if (1) the taxpayer has a reasonable excuse for the late filing, or (2) the tax exceeds 50 percent of the tax that would have been assessed if the return had been timely filed. The taxpayer in that case is penalized because the assessors can only abate the amount over 150 percent of the amount that would have been assessed.

#### **Example**

**If a taxpayer does not file a list and the assessors valued property actually worth \$1000 at \$2000, no abatement may be made.**

**If the taxpayer files the list after the deadline, but applied for abatement in a timely manner, the assessors may grant an abatement of up to \$500 of value.**

### **13.5 Charitable and Veterans' Organizations**

Charitable and veterans' organizations must file an annual return listing the property they own on January 1 for which they claim an exemption for the next fiscal year.<sup>60</sup> Returns submitted by charitable organizations must also include a copy of their annual public charity reports<sup>61</sup> to the Attorney General. The return is due on or before March 1 prior to the fiscal year of the tax. The assessors may extend the filing date if the organization shows a reasonable excuse for not filing on time. The latest they can extend the deadline is 30 days after the actual tax bill is issued.

## **14.0 ABATEMENT PROCEDURE**

### **14.1 Application and Processing**

Assessors process applications for abatement of personal property taxes in the same manner and on the same forms as real estate abatements. The application filing deadline is also the same as for real estate taxes, *i.e.*, the due date of the first installment payment of the actual tax bill.

**14.1 Abatement of Uncollectible Taxes**

Assessors may abate certain personal property taxes upon the collector's request. The collector notifies the assessors in writing under oath that the taxes are uncollectible because the taxpayer is dead, absent, bankrupt, insolvent or otherwise unable to pay.<sup>62</sup> Within 30 days, the assessors must review the request and certify any abatements they grant to the collector.

**14.3 8 of 58 Abatements**

The DOR may authorize assessors to abate personal property taxes in other circumstances where they no longer have the legal power to abate because the taxpayer did not timely apply for abatement.<sup>63</sup> This is a discretionary administrative procedure assessors may use to clear uncollectible taxes or rectify significant assessment errors. It is not a taxpayer remedy. Assessors are not required to request abatement authority for any particular taxpayer, DOR is not required to grant it, and assessors are not required to exercise it if granted.

**15.0 PERSONAL PROPERTY VALUATION****15.1 Cost Approach**

Personal property is assessed at fair cash value as of January 1 each year.<sup>64</sup> Assessors usually use the cost method to estimate the value of personal property, typically relying on industry cost manuals. This may be reproduction, replacement or original cost, less depreciation as the situation warrants.<sup>65</sup>

**15.2 Depreciation**

Depreciation must be based on age, condition and quality of the property. Property still in use has a utility value, even if its life expectancy has been exceeded and it has zero value for accounting or regulatory purposes. Generally, property in use should not be depreciated below 20 percent, although depreciation as low as five percent might be appropriate where economic obsolescence principles apply. Assessors must document depreciation allowances.

**16.0 CENTRALLY VALUED PERSONAL PROPERTY****16.1 Overview**

The valuation of some personal property is determined by DOR, not the assessors. Assessors must use these values in assessing taxes on the property.

**16.2 Pipelines**

DOR values pipelines of natural gas and oil companies that extend for more than 25 miles in Massachusetts.<sup>66</sup> Pipelines of gas and electric companies are valued locally.

Pipeline companies must file a return with DOR by January 31 of each year. DOR certifies the values to assessors by June 15. Pipeline owners and the assessors may appeal the valuations to the ATB by July 15.

### **16.3 Telephone and Telegraph Companies**

DOR values the poles, wires, underground conduits, wires and pipes and machinery of telephone and telegraph companies.<sup>67</sup> Telephone and telegraph companies are not defined by statute for purposes of central valuation. DOR generally accepts a return filed by any company that actually provides telephone service over a network owned by the company. In addition, DOR values any company that provides telephone, cable television and Internet service over wires, and provides substantial telephone service as part of its package as a telephone company.<sup>68</sup> The Appellate Tax Board has ruled that a mobile or cellular wireless service company is not a telephone company for central valuation purposes and that decision is expected to be the subject of further appeal.<sup>69</sup> In the meantime, DOR will continue to value such wireless companies as telephone companies, but assessors may value the companies on their own.<sup>70</sup>

If the telephone or telegraph company is a corporation, its poles and wires located on public ways and switching equipment are not taxable and DOR does not value them. If the company is a partnership or LLC, those assets are taxable and DOR values them. All other taxable property of telephone and telegraph companies is reported, valued and assessed locally.

Telephone and telegraph companies must file a return with DOR by March 1 of each year. DOR certifies the values to assessors by May 15. The companies and the assessors may appeal the valuations to the ATB by June 15.

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<sup>1</sup> G.L. Ch. 59 §2.

<sup>2</sup> G.L. Ch. 59 §5, cl. 24.

<sup>3</sup> G.L. Ch. 59 §2A(a).

<sup>4</sup> G.L. Ch. 60 §§24 and 29; *Boston v. Rockland Trust Co.*, 391 Mass. 48, 56 (1984).

<sup>5</sup> G.L. Ch. 59 §2.

<sup>6</sup> G.L. Ch. 59 §18.

<sup>7</sup> *Assessors of Sheffield v. J.F. White Contracting Co.*, 333 Mass. 306 (1955).

<sup>8</sup> G.L. Ch. 59 §18, Second A.

<sup>9</sup> G.L. Ch. 59 §18.

<sup>10</sup> G.L. Ch. 59 §18, Second.

<sup>11</sup> G.L. Ch. 59 §18, Sixth.

<sup>12</sup> G.L. Ch. 59 §18, Fourth.

<sup>13</sup> G.L. Ch. 59 §18, Third.

<sup>14</sup> For exemptions allowed under GL c. 59, §5 the exemption qualifying date is generally July 1 “unless another meaning is clearly apparent from the context.” Since the process for reporting, valuing, assessing and abating all relate to the January 1 date, and there is no mechanism for assessing a tax on a non-exempt entity that acquires personal property after January 1, DOR has considered January 1 the exemption qualifying date for personal property. The matter may be determined in pending litigation concerning a centrally valued telephone and telegraph company.

<sup>15</sup> G.L. Ch. 59 §5, cl. 35; G.L. Ch. 60A.

<sup>16</sup> G.L. Ch. 60B §2(d).



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- <sup>17</sup> G.L. Ch. 59 §5, cl. 21; G.L. Ch. 59 §8A.
- <sup>18</sup> G.L. Ch. 59 §5, cl. 36; G.L. Ch. 140 §32G.
- <sup>19</sup> G.L. Ch. 90 §49.
- <sup>20</sup> G.L. Ch. 60, §30.7.
- <sup>21</sup> G.L. Ch. 59 §5, cl. 54.
- <sup>22</sup> G.L. Ch. 4 §4.
- <sup>23</sup> G.L. Ch. 59 §5, cl. 20.
- <sup>24</sup> *Op. Atty. Gen.* Aug. 1, 1952, p. 17.
- <sup>25</sup> G.L. Ch. 59 §5, cl. 20.
- <sup>26</sup> G.L. Ch. 59 §5, cl. 20.
- <sup>27</sup> *Paul Cocchi d/b/a Paul's Tree Service v. Board of Assessors of the Town of Ludlow*, ATB 2006-680 at 687-689.
- <sup>28</sup> See endnote 27.
- <sup>29</sup> Limited Liability Companies (LLCs) treated as partnerships for federal tax purposes are taxable on all personal property under G.L. Ch. 59, §18, First. *RCN-BecoCom LLC v. Commissioner of Revenue*, 443 Mass. 198 (2005).
- <sup>30</sup> G.L. Ch. 59 §5, cl. 16(1). This section also literally limits the local property tax bank exemptions to domestic financial corporations. However, the Supreme Judicial Court has held that a foreign corporation authorized to do business in the commonwealth is entitled to the same property tax exemptions as a domestic counterpart, even if the statute provides a specific exemption only for the domestic corporation. *Mary C. Wheeler School, Inc. v. Board of Assessors of Seekonk*, 368 Mass. 344 (1975). See also *Perini Corporation v. Commissioner of Revenue*, 419 Mass. 763 (1995)(differences in deductions allowed for domestic and foreign corporations under corporate excise violated commerce clause of United States Constitution and the court remanded case to the ATB to determine the amount of tax abatement owed to taxpayer)
- <sup>31</sup> G.L. Ch. 58 §2.
- <sup>32</sup> G.L. Ch. 59 §5, cl. 16(5).
- <sup>33</sup> G.L. Ch. 59 §5, cl. 16(2).
- <sup>34</sup> G.L. Ch. 59 §18, Fifth; *Warner Amex Cable Communications, Inc. v. Board of Assessors of Everett*, 396 Mass. 239 (1985)(cable TV); *Board of Assessors of City of Springfield v. Commissioner of Corporations and Taxation*, 321 Mass. 186 (1947)(telephone).
- <sup>35</sup> *Brown, Rudnick, Freed & Gesmer v. Board of Assessors of Boston*, 389 Mass. 298 (1983).
- <sup>36</sup> G.L. Ch. 59 §5, cl. 16(2).
- <sup>37</sup> *Rudnick Realty v. Board of Assessors of Westborough*, 373 Mass. 856 (1977).
- <sup>38</sup> *Canteen Corporation v. Board of Assessors of Newton*, ATB Docket No. 127556 (3/4/1988).
- <sup>39</sup> *In re South Shore Vending, Inc.*, 25 B.R. 111 (1982).
- <sup>40</sup> G.L. Ch. 59 §5, cl. 16(3).
- <sup>41</sup> *Boston Gas. Co. v. Assessors of Boston*, 334 Mass. 549 (1956).
- <sup>42</sup> G.L. Ch. 59 §5, c. 16(3), as amended by St. 1997, Ch. 164 §70 (Electric Restructuring Act). Generation of electricity is considered a manufacturing process. Electric co-generating plants of 30 megawatts or less, electric generating plants classified as manufacturing on or before January 1, 1996 and portions of electric generating plants qualifying as pollution control devices under G.L. Ch. 59 §5, cl. 44 are still exempt.
- <sup>43</sup> *Board of Assessors of Swampscott v. Lynn Sand & Stone Co.*, 360 Mass. 595 (1971).
- <sup>44</sup> G.L. Ch. 59 §5(16)(3) and (16A).
- <sup>45</sup> G.L. Ch. 4 §4.
- <sup>46</sup> Research and development corporations are specifically defined in G.L. Ch. 63 §§38C and 42B.
- <sup>47</sup> G.L. Ch. 58 §2; 830 C.M.R. 58.2.1.
- <sup>48</sup> *Fernandes Supermarkets, Inc. v. State Tax Commission*, 371 Mass. 318 (1976).
- <sup>49</sup> See Form 355RD at <http://www.mass.gov/Ador/docs/dor/Forms/Corp07/PDFs/Addl/355RD.pdf>.
- <sup>50</sup> G.L. Ch. 59 §5, cl. 16(1).
- <sup>51</sup> See endnotes 34 & 41.
- <sup>52</sup> G.L. Ch. 63 §52A lists utilities subject to the utility corporation franchise tax and thus, entitled to the utility corporation property tax exemptions.
- <sup>53</sup> G.L. Ch. 59 §5, cl. 15

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<sup>54</sup> G.L. Ch. 59 §18, First. The issue of whether LLCs treated as partnerships for federal tax purposes are treated as partnerships under G.L. Ch. 59 §18, Sixth was not addressed although raised in *RCN-BecoCom LLC v. Commissioner of Revenue*, 443 Mass. 198 (2005).

<sup>55</sup> This treatment is being challenged in at least one telephone and telegraph case currently before the Appellate Tax Board.

<sup>56</sup> G.L. Ch. 59 §29.

<sup>57</sup> State Tax Forms 2 and 2HF

<sup>58</sup> G.L. Ch. 59 §32.

<sup>59</sup> G.L. Ch. 59 §61.

<sup>60</sup> G.L. Ch. 59 §5, cl. 3(b); cl. 5 and 5A; Ch. 59 §29; State Tax Form 3ABC.

<sup>61</sup> Form PC.

<sup>62</sup> G.L. Ch. 59 §71.

<sup>63</sup> G.L. Ch. 58 §8.

<sup>64</sup> G.L. Ch. 59 §38.

<sup>65</sup> The income and market sales approaches may be used in special circumstances, but are considered less reliable in the vast majority of personal property valuations.

<sup>66</sup> G.L. Ch. 59 §38A.

<sup>67</sup> G.L. Ch. 59 §39.

<sup>68</sup> *RCN-BecoCom LLC v. Commissioner of Revenue*, 443 Mass. 198 (2005).

<sup>69</sup> *Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a Verizon Wireless v. Commissioner of Revenue et al.*, A.T.B. Nos. C267959-C268176, C269027-028 (2006) and *Board of Assessors of City of Newton v. Commissioner of Revenue and Bell Atlantic Mobile, LLC*, A.T.B. No. C269569, ATB 2007-121 (2/27/07).

<sup>70</sup> Assessors should consult with municipal counsel before deciding on a particular course of action regarding wireless companies.

**TABLE 1. Personal Property Tax Exemption Quick Reference**

<b>OWNER</b>					
<b>Type of Personal Property</b> ↓			<b>Corporations</b>		
	Individual	Partnership, Joint Owner Estate/Trust, LLC filing federally as partnership or disregarded entity without sole member S corporation	Business Corporation (Includes Mutual Insurance Holding Company, LLC filing corporate federal return & LLC filing federally as disregarded entity with S corporation as sole member)	Manufacturing Corporation (must be classified by Commissioner)	Utility, Financial Institution, Insurance Company* & Corporation Subject to Excise under Chapter 63, other than business or manufacturing corporation (does not include LLC)
* Out of state insurance company entitled to exemption only if state of incorporation or state where it principally conducts business provides reciprocal exemptions for Massachusetts insurance companies.					
Wearing Apparel, Household Furnishings & Effects (HF&E)	<b>Exempt</b> except Taxable for HF&E located out of domicile	<b>Taxable</b>	<b>Exempt</b>	<b>Exempt</b>	<b>Exempt</b>
Autos, Trailers, Boats, Private Airplanes, Manufactured Homes, Farm Animals/Equipment (Subject to Excise or Other Fee)	<b>Exempt</b>	<b>Exempt</b>	<b>Exempt</b> except Taxable for Farm Machinery used in Conduct of Business (since corporations are not subject to farm machinery excise)	<b>Exempt</b>	<b>Exempt</b>
Tools & Equipment other than Machinery	<b>Taxable</b> except for Farming Utensils & Mechanics Tools	<b>Taxable</b>	<b>Exempt</b>	<b>Exempt</b>	<b>Exempt</b>
Merchandise	<b>Taxable</b>	<b>Taxable</b>	<b>Exempt</b>	<b>Exempt</b>	<b>Exempt</b>
Poles, Underground Conduits, Wires & Pipes (Utilities, Cable & other Telecoms)	<b>Taxable</b>	<b>Taxable</b>	<b>Taxable</b> except for Poles & Wires of Actual Corporation (not LLC) located on Public Way	<b>Taxable</b> except for Poles & Wires of Actual Corporation (not LLC) located on Public Way	<b>Taxable</b> except for Poles & Wires of Actual Corporation (not LLC) located on Public Way
Machinery used in Business	<b>Taxable</b> except for machine tools of trade of a mechanic	<b>Taxable</b>	<b>Taxable</b> except for Stock in Trade, Refrigeration, Air-conditioning, Laundering, Dry Cleaning, Purchasing, Selling, Accounting or Administrative	<b>Exempt</b> except Taxable for certain Electric Generating Machinery**	<b>Exempt</b> except Taxable on Machinery Used in Manufacture or to Supply & Distribute Water
** Electric generating machinery classified manufacturing on or before January 1, 1996, cogeneration machinery of 30 megawatts or less capacity & machinery certified as pollution control device are exempt.					



**TABLE 2. Valuation of Telephone & Telegraph Company Personal Property  
Applying RCN-BecoCom Supreme Judicial Court Decision**

<i>Form of Entity</i>	<i>Type of Equipment</i>	<i>Taxable/Exempt</i>	<i>Valued Centrally/Locally</i>
Corporations	Telephone switching machinery, furniture, office equipment & machinery, electric generators, batteries, video electronics, studio machinery, Internet computers & electronics, poles, wires, fiber, coaxial cable, related transmission machinery and equipment	Taxable on Poles, Wires, Underground Conduits, Pipes, except poles & wires on public ways Also taxable on Machinery Used in Manufacture (Electric Generators)  Exempt on all other machinery and personal property (Including Cable TV & Internet Property That Would Otherwise be Taxable)	Centrally  (Cable TV & Internet Property that Would Otherwise be Valued and Assessed Locally Is Probably Exempt)
Partnerships, Trusts, LLCs Not Filing Federal Tax Returns as Corporations and Single Member LLCs Filing Federally as Disregarded Entities & Whose Single Members are not S Corporations	Telephone switching machinery, furniture, office equipment & office machinery, electric generators, batteries, video electronics, studio machinery, Internet computers & electronics, poles, wires, fiber, coaxial cable, related transmission machinery and equipment	Taxable on all personal property	Centrally on Poles, Wires, Underground Conduits, Pipes and Telephone Machinery, including Switching Machinery.  Locally on All Other Machinery, Inventory and Furniture, Including Cable TV & Internet Related Property
LLCs Filing Federal Tax Returns as Corporations & Single Member LLCs Filing Federally as Disregarded Entities & Whose Single Members are S Corporations	Telephone switching machinery, furniture, office equipment & office machinery, electric generators, batteries, video electronics, studio machinery, Internet computers & electronics, poles, wires, fiber, coaxial cable, related transmission machinery and equipment	Taxable on poles, wires, underground conduits & pipes including poles and wires on public ways. Also taxable on machinery used in the conduct of business, which excludes stock-in-trade and machinery directly used in a laundering or dry cleaning, refrigeration of goods and air-conditioning of premises, and in any selling, purchasing, accounting or administrative function	Centrally on all Poles, Wires, Underground Conduits, Pipes and Telephone Machinery, including Switching Machinery.  Locally on All Other Machinery Used in the Conduct of Business, Other Than Telephone Service Machinery

State Tax Form 2  
Revised 12/2005

The Commonwealth of Massachusetts

Assessors' Use only

Name of City or Town

Date Received

**FISCAL YEAR \_\_\_\_\_ -- FORM OF LIST**  
**Return of personal property subject to taxation**  
**General Laws Chapter 59 §29**

TO BE FILED BY ALL INDIVIDUALS, PARTNERSHIPS, ASSOCIATIONS OR TRUSTS, CORPORATIONS, LIMITED  
 LIABILITY COMPANIES AND OTHER LEGAL ENTITIES SUBJECT TO TAXATION IN THIS CITY OR TOWN  
 PERSONAL PROPERTY SCHEDULES NOT OPEN TO PUBLIC INSPECTION  
 (See General Laws Chapter 59 §32)

Return to: Board of Assessors

Form must be filed by March 1 unless an  
 extension is granted by the board of assessors

<b>1. TAXPAYER INFORMATION.</b> Complete all sections that apply. Please type or print.		
<b>A. Name of taxpayer:</b> (1) Owner's name: _____ (2) Business name: _____		<b>B. Assessors' use only</b>
<b>C. Indicate status:</b> <input type="checkbox"/> Individual. <input type="checkbox"/> Partnership. Indicate names of all partners: _____  <input type="checkbox"/> Association or Trust. Indicate names of all trustees: _____  <input type="checkbox"/> Corporation. Check here <input type="checkbox"/> if corporation classified as a manufacturer by Commissioner of Revenue. (To be classified as a manufacturer, an application must be made to the Commissioner on or before January 31 on form 355Q. G.L. Ch. 63, §§38C & 42B; Ch. 58 §2; Ch. 59 §5(16)(5) and 830 C.M.R. 58.2.1) <input type="checkbox"/> if a mutual insurance holding company (G.L. Ch. 175 §§19F-19W and Ch. 63 §§30, 32 & 39) <input type="checkbox"/> if an insurance company incorporated in a state other than Massachusetts or in a foreign country <input type="checkbox"/> if a financial institution (G.L. Ch. 63 §§1 & 2) <input type="checkbox"/> if a utility corporation (G.L. Ch. 63 §52A)  <input type="checkbox"/> Limited Liability Company. <i>Files federal taxes as</i> <input type="checkbox"/> corporation <input type="checkbox"/> partnership <input type="checkbox"/> disregarded entity <input type="checkbox"/> other entity (specify) _____ Effective date of election to file as such entity: _____ Attach copy of such election. Indicate names of all members: _____ Check here <input type="checkbox"/> if LLC classified as a manufacturer by Commissioner of Revenue. (To be classified as a manufacturer, an application must be made to the Commissioner on or before January 31 on form 355Q. G.L. Ch. 63, §§38C & 42B; Ch. 58 §2; Ch. 59 §5(16)(5) and 830 C.M.R. 58.2.1) If LLC, or other entity, electing to be treated federally as disregarded entity, has S corporation as sole member. Yes <input type="checkbox"/> No <input type="checkbox"/> <input type="checkbox"/> Executor/administrator. Indicate estate of: Decedent's last residence: _____ <input type="checkbox"/> Other. Specify: _____		
<b>D. Nature of business or profession:</b>	<b>E. State of incorporation:</b>	<b>F. Date of incorporation:</b>
<b>G. Business address</b>		
(1) Address: _____		
(2) Mailing address (if different): _____		
(3) Telephone number: (     ) _____		
<b>H. Location(s) of personal property:</b>		

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

<b>2. GENERAL INFORMATION</b>	
<p><b>A. WHO MUST FILE A RETURN.</b> This Form of List (State Tax Form 2) must be filed each year by all individuals, partnerships, associations, trusts, corporations, limited liability companies and other legal entities that own or hold taxable personal property on January 1. This may include owners of pipelines and telephone and telegraph companies that are required to file a personal property return with the Massachusetts Department of Revenue under G.L. Ch. 59 §83A or 41 and also own other taxable personal property. Individuals owning or holding household furnishings and effects not located at their domicile on January 1 must also file State Tax Form 21HF. Literary, temperance, benevolent, charitable or scientific organizations that may be entitled to an exemption under G.L. Ch. 59 §5 Clause 3 must file State Tax Form 3ABC listing all property they own or hold for those purposes on January 1.</p> <p><b>B. WHEN AND WHERE RETURN MUST BE FILED.</b> Returns must be filed by March 1 with the board of assessors in the city or town where the personal property is situated on January 1. If the property has no situs on January 1, it must be listed on a return filed with the assessors in the city or town where you are domiciled (legal residence or place of business). A return is not considered filed unless it is complete.</p> <p><b>C. EXTENSION OF FILING DEADLINE.</b> The board of assessors may extend the filing deadline if you can show sufficient reason for not filing on time. The latest date the filing deadline can be extended is 30 days after the tax bills are mailed for the fiscal year. Requests for an extension must be made in writing to the assessors.</p> <p><b>D. PENALTY FOR FAILURE TO FILE OR FILING LATE.</b> If you do not file a return for the fiscal year, the assessors cannot grant an abatement for overvaluation of the personal property for that year. If the return is not filed on time, the assessors can only grant an abatement if you show a reasonable excuse for the late filing or the tax assessed is more than 150% of the amount that would have been assessed if the return had been timely filed. In that case, only the amount over that percentage can be abated. You can avoid this penalty by filing on time.</p> <p><b>E. USE OF AND ACCESS TO RETURN.</b> The information in the return is used by the board of assessors to determine the taxable or exempt status of your personal property and, if taxable, its fair market value. You may also be required to provide the assessors with further information about the property in writing and asked to permit them to inspect it. <b>Personal property information listed in Schedules A-I is not available to the public for inspection under the state public records law. It is available only to the assessors and Massachusetts Department of Revenue for purpose of administering the tax laws.</b></p>	
<b>3. TAXABLE PERSONAL PROPERTY</b>	
<p>In general, all tangible personal property situated in Massachusetts and all tangible personal property owned by Massachusetts domiciliaries is taxable unless expressly exempt. [G.L. Ch. 59 §82 &amp; 18]. Exemptions are usually based on (1) ownership, (2) type of property, or (3) use of property. The following chart summarizes the personal property that is taxable and must be listed in the return. If you have any questions about the taxable status of your personal property, please contact your board of assessors.</p>	
<p><b>A. INDIVIDUALS, PARTNERSHIPS, ASSOCIATIONS, TRUSTS, and LIMITED LIABILITY COMPANIES (LLC)</b> filing federally as partnerships, disregarded entities (except LLC or other entity electing to be treated federally as disregarded entity with S corporation as its sole member) and other non-corporate entities</p>	<p>All tangible personal property requested in the schedules that follow. Individuals are entitled to an exemption for (1) household furniture and effects at the place of their domicile, (2) farm utensils, (3) tools of a mechanic's trade, and (4) boats, fishing gear and nets up to a value of \$10,000 owned and actually used in the individual's business if engaged exclusively in commercial fishing. [G.L. Ch. 59 §5, cl. 20].</p>
<p><b>B. MASSACHUSETTS BUSINESS and OUT-OF-STATE BUSINESS CORPORATIONS</b> as defined in G.L. Ch. 63 §30, including <b>LIMITED LIABILITY COMPANIES</b> filing federally as corporations, or electing to be treated federally as disregarded entities and having S corporations as their sole members, and <b>MUTUAL INSURANCE HOLDING COMPANIES</b></p>	<p>Poles, underground conduits, wires and pipes. All "machinery used in the conduct of business" except machines that are:</p> <ul style="list-style-type: none"> <li>(1) stock in trade,</li> <li>(2) used directly in dry cleaning or laundering processes, to refrigerate goods or to air condition premises, or</li> <li>(3) used directly in purchasing, selling, accounting or administrative functions. [G.L. Ch. 59 §5, cl. 16(2)].</li> </ul>
<p><b>C. MASSACHUSETTS and OUT-OF-STATE MANUFACTURING CORPORATIONS and LIMITED LIABILITY COMPANIES</b> filing federally as corporations, or electing to be treated federally as disregarded entities and having S corporations as their sole members, that have been classified as "manufacturing" by the Department of Revenue</p>	<p>Poles, underground conduits, wires and pipes. All tangible personal property used in the manufacture or generation of electricity except property that:</p> <ul style="list-style-type: none"> <li>(1) is a cogeneration facility of 30 megawatts or less in capacity, or</li> <li>(2) was exempt because of a manufacturing classification effective on or before January 1, 1996. [G.L. Ch. 59 §5, cl. 16(3)].</li> </ul>
<p><b>D. ALL OTHER MASSACHUSETTS CORPORATIONS</b> subject to taxation under G.L. Ch. 63, including financial institutions, insurance companies, savings and cooperative banks and utility corporations AND <b>ALL OTHER OUT-OF-STATE CORPORATIONS</b> subject to taxation under G.L. Ch. 63 §520, 23, 52A &amp; 58, including utility corporations, public service corporations subject to taxation under G.L. Ch. 63 §58 and insurance companies if state of incorporation (or principal place of business if incorporated in foreign country) exempts similar tangible personal property of Massachusetts insurance companies. See Acts of 1941, Ch. 467.</p>	<p>Poles, underground conduits, wires and pipes. Machinery used in manufacture, or in supplying or distributing water. [G.L. Ch. 59 §5, cl. 16(1)].</p>
<p><b>E. ALL OTHER OUT-OF-STATE INSURANCE COMPANIES</b></p>	<p>All tangible personal property requested in the schedules that follow. [G.L. Ch. 59 §5, cl. 16(1)].</p>
<b>4. INSTRUCTIONS FOR COMPLETING SCHEDULES</b>	
<p>List all items of taxable personal property owned or held on January 1 in the appropriate schedules that follow, including items in your physical possession on that date under a lease, consignment, license, mortgage, pledge or other arrangement. You must also list all real property owned in the city or town on January 1. For your return to be considered complete, all information specified in the schedules except the "Estimated Market Value" must be provided and all copies of leases, consignments, etc., for any property in your possession under such arrangements must be attached.</p>	
<p><b>A. POLES, UNDERGROUND CONDUITS, WIRES AND PIPES.</b></p> <p><b>B. MACHINERY.</b> Including manufacturing and generating machinery and equipment (turbines, engines, etc.), construction machinery, copying and reproduction equipment, automated data and word processing equipment, appliances (freezers, refrigerators, air conditioners, etc.), electronics (televisions, microwaves, etc.) and any other machines and mechanical devices.</p> <p><b>C. TOOLS AND EQUIPMENT.</b> Includes trade, business, or professional tools and equipment, including restaurant, laboratory and medical equipment, not listed as machinery.</p> <p><b>D. BUSINESS FURNITURE AND FIXTURES.</b> Includes business, professional, commercial or service fittings and furnishings (desks, tables, cabinets, display cases), rugs, floor coverings and draperies, lamps, specialized lease-hold improvements (restaurant fittings, modular walls, etc.), works of art and decorations, books and professional libraries and all other fittings and effects.</p> <p><b>E. MERCHANDISE.</b> Includes goods, wares, or any stock in trade in any store or other place of sale, in any warehouse or other place of storage, out on lease or consignment, etc.</p> <p><b>F. UNREGISTERED MOTOR VEHICLES AND TRAILERS.</b> Includes motor vehicles not carrying Massachusetts registration plates under G.L. Ch. 90, unregistered agricultural (except those subject to the farm excise under G.L. Ch. 59 §8A) and industrial tractors, trailers, snowmobiles, motorized golf carts and all other kinds and type of unregistered vehicles.</p> <p><b>G. ANIMALS.</b> Includes (1) mules and horses one year or older, (2) neat cattle (cows, yearlings, bulls, steers, heifers, etc.) one to three years old and not held for the owner's personal consumption, (3) neat cattle three years or older, (4) swine, sheep and goats six months or older, (5) domestic fowl (chickens, ducks, geese, turkey), and (6) all other domestic animals, wildlife and gamefish (mink, fox, etc.) not subject to the farm excise under G.L. Ch. 59 §8A.</p> <p><b>H. FOREST PRODUCTS.</b> Includes forest products severed from the soil such as cordwood, timber, Christmas trees and other forest products not subject to the classified forest products tax under G.L. Ch. 61.</p> <p><b>I. OTHER TAXABLE PERSONAL PROPERTY.</b> Includes all other tangible personal property not specifically exempt from taxation.</p> <p><b>J. REAL PROPERTY.</b> Includes all real property owned in the city or town on January 1.</p>	

**A. POLES, UNDERGROUND CONDUITS, WIRES AND PIPES**

*Own/Other	Type	Quantity/Run feet	Size	Make	Nature of use	Years installed	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.								Subtotal Schedule A	0.00
								Subtotal attachment	0.00
								TOTAL	0.00

**B. MACHINERY**

*Own/Other	No.	Description	Nature of use	Manufacturer	Model	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.							Subtotal Schedule B	0.00
							Subtotal attachment	0.00
							TOTAL	0.00

**C. TOOLS AND EQUIPMENT**

TOOLS AND EQUIPMENT							
*Own/Other	No.	Description	Nature of use	Type/model	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.					Subtotal Schedule C	0.00	0.00
					Subtotal attachment		
					TOTAL	0.00	0.00

**D. BUSINESS FURNITURE AND FIXTURES**

*Own/Other	No.	Description	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.				Subtotal Schedule D	0.00
				Subtotal attachment	0.00
				TOTAL	0.00

**E. MERCHANDISE**

*Own/Other	Type	Description	Purchase price	Estimated market value
	Finished goods or products			
	Work in progress			
	Materials or supplies			
Continue list on attachment, in same format, as necessary.			Subtotal Schedule E	0.00
			Subtotal attachment	0.00
			TOTAL	0.00

**F. UNREGISTERED MOTOR VEHICLES AND TRAILERS**

*Own/Other	Year of mfr.	Model, name, letter or number	Make	Type: Describe sufficiently for identification giving number of passengers, number of doors, type of body. If not required to be registered, so state and name use.	No. of cylinders or rated capacity	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.						Subtotal Schedule F	0.00
						Subtotal attachment	0.00
						TOTAL	0.00

\*Specify if property owned, leased, consigned, etc. and attach copies of lease or other agreement with owner.



**G. ANIMALS**

Own/Other	No.	Kind	Age	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.				Subtotal Schedule G	0.00
				Subtotal attachment	
				TOTAL	0.00

**H. FOREST PRODUCTS**

*Own/Other	No.	Description	Estimated market value
Continue list on attachment, in same format, as necessary.			Subtotal Schedule H
			0.00
			Subtotal attachment
			0.00
			TOTAL
			0.00

**I. OTHER TAXABLE PERSONAL PROPERTY**

*Own/Other	No.	Description	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.				Subtotal Schedule I	0.00
				Subtotal attachment	
				TOTAL	0.00

**J. REAL PROPERTY**

Address	Use: residence or business

Continue list on attachment, in same format, as necessary.

**5. SIGNATURES**

**A. SIGNATURE OF TAXPAYER.** This list, prepared or examined by me, includes all taxable personal property owned or held by the maker of this list on January 1 (except property that must be listed on State Tax Form 2HF) and to the best of my knowledge and belief, it and all accompanying schedules and statements are true, correct and complete.

Subscribed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, under the penalties of perjury.

Signature \_\_\_\_\_ (Sign full name of individual or authorized officer)

Title of authorized officer \_\_\_\_\_

(Print or type) Name of signer \_\_\_\_\_ Address \_\_\_\_\_ Telephone \_\_\_\_\_

Email Address \_\_\_\_\_ FAX Number \_\_\_\_\_

**B. DESIGNATION OF REPRESENTATIVE.** If it is your desire to be represented by an employee, attorney, accountant or other agent with respect to any matter associated with this list, indicate the name of the person you have authorized and to whom the contents of this list may be disclosed, along with the information requested.

Name of designated representative \_\_\_\_\_

Address \_\_\_\_\_ Telephone ( ) \_\_\_\_\_

Email Address \_\_\_\_\_ FAX Number \_\_\_\_\_

**ASSESSORS' USE ONLY**



<b>2.</b>	<b>GENERAL INFORMATION</b>	<p><b>A. WHO MUST FILE A RETURN.</b> This Return (State Tax Form 5941) must be filed each year by all telephone or telegraph companies, including individuals, partnerships, associations, trusts, corporations, limited liability companies and other legal entities, that own taxable telephone and telegraph personal property, subject to valuation by the Commissioner of Revenue, situated in any city or town of the Commonwealth on January 1. <b>OWNERS OF PROPERTY, NOT HOLDERS OF IRUs, MUST REPORT PERSONALTY.</b></p> <p><b>B. WHEN AND WHERE RETURN MUST BE FILED.</b> Returns must be filed by March 1 with the Bureau of Local Assessment, P.O. Box 9569, Boston, MA 02114-9569. A return is not considered filed unless it is complete. The return must be submitted electronically in the Excel format requested to <a href="mailto:bladata@dor.state.ma.us">bladata@dor.state.ma.us</a> along with a printed and signed copy. See Part 3 for taxable personal property subject to valuation by the Commissioner.</p> <p><b>C. PENALTY FOR FAILURE TO FILE OR FILING LATE.</b> If no return is filed for the fiscal year, the company will be barred from any appeal of the Commissioner's determination of value, unless the company was unable to comply for reasons beyond its control G.L. c. 59, §41.</p> <p><b>D. USE OF RETURN.</b> The Bureau of Local Assessment uses the information in the return to determine whether the property is subject to valuation by the Commissioner, and, if appropriate, its fair market value.</p>
<b>3.</b>	<b>TAXABLE PERSONAL PROPERTY SUBJECT TO VALUATION BY THE COMMISSIONER OF REVENUE</b>	<p>The commissioner is required to value telephone and telegraph machinery, poles, wires, underground conduits, wires and pipes of telephone and telegraph companies owned as of January 1 preceding the filing date. G.L. c. 59, §39. <b>Lists of all other taxable personal property must be submitted to local boards of assessors in the municipalities in which the property is situated, under G.L. c. 59, §29. G.L. c. 59, §41.</b> Taxable property subject to central valuation will vary, depending on the legal form of ownership of the property. Corporations will be valued only on poles and wires over private property, underground conduits, wires and pipes in public or private property, and machinery used in manufacture or in supplying and distributing water. G.L. c. 59, §39; G.L. c. 59, §5, Cl. 16(1); &amp; G.L. c. 59, §18(5). LLCs filing federal returns as corporations, and LLCs or other entities electing to be treated federally as disregarded entities, whose sole members are S corporations, will be valued on all poles, wires, underground conduits, wires and pipes situated in the commonwealth and machinery used in the conduct of business, which includes generators, switching and routing equipment, but excludes machinery that is stock in trade or used directly in a selling, purchasing, accounting or administrative function. Other legal entities, including LLCs filing federal returns as partners or as disregarded entities (except single member LLCs whose single members are S corporations), will be valued by the commissioner on all poles, wires, underground conduits, wires and pipes situated in the commonwealth, and all machinery used for telephone and telegraph purposes. G.L. c. 59, §39; G.L. c. 59, §18.</p>
<b>4.</b>	<b>INSTRUCTIONS FOR LISTING TAXABLE PROPERTY SUBJECT TO VALUATION BY THE COMMISSIONER</b>	<p>List all items of taxable personal property subject to valuation by the Commissioner owned by the filing company on January 1 in printed attachments and in the prescribed Excel file format. <b>If any such property was reported by another telephone or telegraph company in the prior filing year, list it separately and provide the name and address of the former filing company.</b></p> <p><b>A. POLES, WIRES, UNDERGROUND CONDUITS, WIRES AND PIPES.</b> Wires include fiber optic cables, copper wires and other similar strands strung on poles or in conduit. List such property in each city or town in the format provided in the excel spreadsheet posted on the website</p> <p><b>B. MACHINERY.</b> A generator is machinery used in manufacture and for telephone/telegraph purposes. Switching and routing equipment is machinery used in the conduct of business for telephone/telegraph purposes. Please refer to the spreadsheet for a more expansive list of types of machinery, as the preceding is intended to be for illustrative purposes and is not exclusive.</p> <p><b>C. ORIGINAL COST.</b> The cost of the property at the time of installation as part of the system. This includes the amount of money paid for the property or the estimated monetary value of the property, if acquired by other consideration or by grant or gift, at the time of acquisition. Such cost shall also include all direct and indirect costs of construction to place said property in operation, including, but not limited to, labor, engineering, materials and supplies, transportation, contract work, protection, taxes, allowance for funds used during construction, insurance, construction services and indirect construction costs as defined in the regulations of the Federal Communications Commission. (47 CFR §32.2000). It does not include allocations or accounting entries made as a result of a merger, takeover acquisition or bankruptcy.</p> <p><b>D. NEW ASSETS.</b> All personalty that is new for fiscal year 2005 and all personal property that is new to a community, whether it be new, used or transferred from another community, must be noted by placing an "X" in the New Asset column on the spreadsheet "List of Telephone and Telegraph Personal Property"</p>
<b>5.</b>	<b>SIGNATURE</b>	<p><b>SIGNATURE OF TREASURER.</b> This return and all accompanying lists and statements prepared or examined by me include all taxable personal property subject to valuation by the Commissioner owned or held by the maker of this return on January 1st, and are true, correct and complete to the best of my knowledge and belief as required by G.L. c. 59, §41. , a return must be signed and sworn to by the company's treasurers.</p> <p>Subscribed this _____ day of _____ under the penalties of perjury.</p> <p>Signature: _____, Treasurer      E-Mail: _____</p> <p>Print Name: _____</p> <p>Address: _____      FAX number (    ) _____</p> <p style="margin-left: 400px;">Telephone (    ) _____</p>

State Tax Form 5941 Appendix  
Issued 12/05

The Commonwealth of Massachusetts  
Commissioner of Revenue  
Division of Local Services  
(617) 626-4087

**FISCAL YEAR 2007 --  
Determination of Substantiality of Telephone or  
Telegraph Service to Qualify for Central Valuation  
General Laws Chapter 59, §41**

TO BE FILED BY COMPANIES SEEKING CENTRAL VALUATION OF TELEPHONE/TELEGRAPH PROPERTY BUT  
ALSO PROVIDING NON-TELEPHONE/TELEGRAPH SERVICES OR BUSINESS IN THIS COMMONWEALTH

**Return to: Bureau of Local Assessment, P.O. Box 9569, Boston, MA 02114-9569**  
This form must be filed by March 1, 2006

<b>1. TAXPAYER INFORMATION.</b> Complete all sections that apply. Please submit this form electronically and the taxable personal property list in the prescribed Excel format and mail a paper copy signed by the Treasurer to the above address. If any information cannot be provided on this form, please provide it by means of attachments.	
<b>A. Identity of Filer as provided on Form 5941:</b> Legal Name of Company: _____	Federal ID # of filer: _____
<b>B. Business Information: Part 1 - Information for the Company as a Whole</b>	
<b>1. PERCENTAGE OF GROSS RECEIPTS</b>	
a. List the percentage of gross receipts for telephone/telegraph service provided during calendar 2005. (Do not include receipts for voice over Internet protocol [VoIP], Cable TV or Internet [access and service]): _____	
b. List the percentage of gross receipts for VoIP services provided in calendar 2005: _____	
c. List the percentage of gross receipts for Internet access, such as cable modem or DSL access, for calendar 2005: _____	
d. List the percentage of gross receipts as an Internet Service Provider (ISP) for calendar 2005: _____	
e. List the percentage of gross receipts for all other services provided or other receipts of the business in calendar 2005: _____ (a. through e. should total 100%)	
<b>2. PERCENTAGE OF INVESTED CAPITAL</b>	
a. List the percentage of the entire capital invested for telephone/telegraph services as of January 1, 2006. (Do not include such capital investments used solely for VoIP, Cable TV or Internet [access and service]): _____	
b. List the percentage of the entire capital invested solely for VoIP as of January 1, 2006: _____	
c. List the percentage of the entire capital invested solely for Internet access as of January 1, 2006: _____	
d. List the percentage of the entire capital invested solely for the ISP business as of January 1, 2006: _____	
e. List the percentage of the entire capital invested for all other purposes of the business as of January 1, 2006: _____	
<b>3. PERCENTAGE OF EMPLOYEES</b>	
a. List the number of persons employed in telephone/telegraph services in calendar 2005. (Do not include the number of employees used only for providing VoIP, Cable TV or Internet [access or service]): _____	
b. List the number of persons employed in providing VoIP in calendar 2005: _____	
c. List the number of persons employed in providing Internet access in calendar 2005: _____	
d. List the number of persons employed in ISP services in calendar 2005: _____	
e. List the total number of persons employed in calendar 2005: _____	

Business Information: Part 2 - Information for the Company Business in Massachusetts

4. PERCENTAGE OF GROSS RECEIPTS

- List the percentage of gross receipts for Massachusetts telephone/telegraph service provided during calendar 2005. (Do not include receipts for voice over Internet protocol [VoIP], Cable TV or Internet [access and service]): \_\_\_\_\_
- List the percentage of Massachusetts gross receipts for VoIP services provided in calendar 2005: \_\_\_\_\_
- List the percentage of Massachusetts gross receipts for Internet access, such as cable modem or DSL access for calendar 2005: \_\_\_\_\_
- List the percentage of Massachusetts gross receipts as an Internet Service Provider (ISP) for calendar 2005: \_\_\_\_\_
- List the percentage of Massachusetts gross receipts for all other services provided or other receipts of the business in calendar 2005: \_\_\_\_\_ (a. through c. should total 100%)

5. PERCENTAGE OF INVESTED CAPITAL

- List the percentage of the entire capital invested for Massachusetts telephone/telegraph services as of January 1, 2006. (Do not include such capital investments used solely for VoIP, Cable TV or Internet [access and service]): \_\_\_\_\_
- List the percentage of the entire capital invested solely for Massachusetts VoIP as of January 1, 2006: \_\_\_\_\_
- List the percentage of the entire capital invested solely for Massachusetts Internet access as of January 1, 2006: \_\_\_\_\_
- List the percentage of the entire capital invested solely for the Massachusetts ISP business as of January 1, 2006: \_\_\_\_\_
- List the percentage of the entire capital invested for all other Massachusetts purposes of the business as of January 1, 2006: \_\_\_\_\_ (a. through e. should total 100%)

6. PERCENTAGE OF EMPLOYEES

- List the number of persons employed in Massachusetts telephone/telegraph services in calendar 2005. (Do not include the number of employees used only for providing VoIP, Cable TV or Internet [access or service]): \_\_\_\_\_
- List the number of persons employed in providing Massachusetts VoIP in calendar 2005: \_\_\_\_\_
- List the number of persons employed in providing Massachusetts Internet access in calendar 2005: \_\_\_\_\_
- List the number of persons employed in providing Massachusetts ISP services in calendar 2005: \_\_\_\_\_
- List the total number of persons employed in all other Massachusetts business of the company in \_\_\_\_\_

2. SIGNATURE

SIGNATURE OF TREASURER. This return and all accompanying lists and statements prepared or examined by me are true, correct and complete to the best of my knowledge and belief. Signature of the treasurer is required by G.L. c. 59, §41.

Subscribed this \_\_\_\_\_ day of \_\_\_\_\_, under the penalties of perjury.

Signature: \_\_\_\_\_, Treasurer      E-Mail: \_\_\_\_\_

Print Name: \_\_\_\_\_      FAX number: \_\_\_\_\_

Address: \_\_\_\_\_      Telephone: \_\_\_\_\_

For your Return to be considered complete, all information requested must be provided.

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

Alphabetical Order		Numeric Order	
Description	Account Code	Account Code	Description
AERIAL CABLE - FIBER	24212	344	ELECTRIC GENERATORS
AERIAL CABLE - METALLIC	24211	2211	ANALOG ELECTRONIC SWITCHING
AERIAL WIRE	2431	2212	DIGITAL ELECTRONIC SWITCHING
ANALOG ELECTRONIC SWITCHING	2211	2215	ELECTRO MECHANICAL SWITCHING
BURIED CABLE - FIBER	24232	2220	OPERATOR SYSTEMS
BURIED CABLE - METALLIC	24231	2351	PUBLIC TELEPHONE TERM EQ
CIRCUIT EQUIPMENT - ANALOG	22321	2411	POLES
CIRCUIT EQUIPMENT - DIGITAL	22322	2431	AERIAL WIRE
CONDUIT SYSTEMS	2441	2441	CONDUIT SYSTEMS
DIGITAL ELECTRONIC SWITCHING	2212	22311	RADIO SYSTEMS - ANALOG
ELECTRIC GENERATORS	344	22312	RADIO SYSTEMS - DIGITAL
ELECTRO MECHANICAL SWITCHING	2215	22321	CIRCUIT EQUIPMENT - ANALOG
INTRA BUILDING CABLE - FIBER	24262	22322	CIRCUIT EQUIPMENT - DIGITAL
INTRA BUILDING CABLE - METALLIC	24261	24211	AERIAL CABLE - METALLIC
OPERATOR SYSTEMS	2220	24212	AERIAL CABLE - FIBER
POLES	2411	24221	UNDERGROUND CABLE - METALLIC
PUBLIC TELEPHONE TERM EQ	2351	24222	UNDERGROUND CABLE - FIBER
RADIO SYSTEMS - ANALOG	22311	24231	BURIED CABLE - METALLIC
RADIO SYSTEMS - DIGITAL	22312	24232	BURIED CABLE - FIBER
SUBMARINE CABLE - FIBER	24242	24241	SUBMARINE CABLE - METALLIC
SUBMARINE CABLE - METALLIC	24241	24242	SUBMARINE CABLE - FIBER
UNDERGROUND CABLE - FIBER	24222	24261	INTRA BUILDING CABLE - METALLIC
UNDERGROUND CABLE - METALLIC	24221	24262	INTRA BUILDING CABLE - FIBER

Antennas are to be listed as either Radio Systems – Analog or Radio Systems – Digital depending on the type of radio system.

List of Taxable Telephone and Telegraph Personal Property (T & T)

Owner's Name: \_\_\_\_\_ Federal Identification #: \_\_\_\_\_ Fiscal Year: 2007

ALL PROPERTY SCHEDULE - BY DESCRIPTION

Table Row	City or Town Location (Select From List)	Description (Select From List)	Year of Installation	Original Cost	New Asset (mark with "X")	Nature of Use	Total Original Cost		
							Account Code (Automatic Entry)	Multiplier (Automatic Entry)	Current Value (Automatic Entry)
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## PERSONAL PROPERTY ADDITIONAL RESOURCES

The following are additional resources on Personal Property produced by DLS that are available on our website: [www.mass.gov/dls](http://www.mass.gov/dls).

- ***Corporations Database*** – Annual comprehensive listing of classification of all corporations for use by Massachusetts assessors in determining local tax status. The book is published exclusively on the web and has a search function.



Slide 1



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Slide 2



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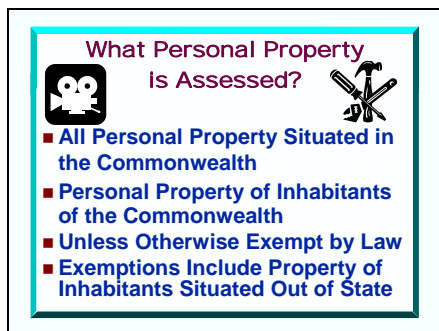
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Slide 3



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Slide 4

**Which Municipality May Assess the Tax? 59:18**

- Where Property Situated on 1/1
- Where the Owner is Domiciled or Has a Principal Place of Business on 1/1
- Commercial Airplanes (Cl. 2A) - Fairly Apportioned Based on Time in Municipality




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Slide 5

**To Whom is Tax Assessed? 59:18**

- Owner 59:18 & 59:18(1)
- Person in Possession or Owner Machinery or Leased for Profit 59:18(2)
- Estate of Deceased or Executor 59:18(3)
- One or More Joint Owners 59:18(4)
- Assessed in Partnership Name - All Partners Liable for Whole Tax 59:18(6)
- As of January 1 of Preceding FY




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Slide 6

**Exemptions for Individuals 59:5(20)**

- Farming Utensils
- Tools of Trade of Mechanic
- Household Furnishings & Effects at Domicile
- Boats, Fishing Gear & Nets - \$10,000 or Less - if Engaged Exclusively in Fishing




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Slide 7

**Exemptions for Individuals**  
(Continued)




**Items Subject to Excise or Other Fee**

- Registered MVs & Trailers **Cl. 35**
- Boats Taxable/Exempt under 60B 60B:2(d)
- Farm Animals & Equipment **59:8A**
- Non-Commercial Airplanes **90:49**
- Manufactured Homes in Licensed Manufactured Home Parks **Cl. 36**

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Slide 8

**Exemptions for Partnerships**

- Taxable for All Personal Property, (except Items Subject to Excise or Other Charge) **59:18(6)**
- Applies to Limited Partnerships
- Limited Liability Companies Treated as Partnerships for Federal Tax Purposes Taxable for All Personal Property (except Items Subject to Excise or Other Charge) **59:18(1)**

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Slide 9

**Corporations**

- 3 Categories of Corporations
- Business, Manufacturing & Utility/Insurance/Financial Institution
- Commissioner Publishes a List on Website
- List Designates M Corps & Separately Lists Financial Institutions & Insurance Companies





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Slide 10

**Property Taxable to All Corporations**



- Poles, Wires, Underground Conduits & Pipes Taxable to All Corporations, **except**
- Poles & Wires over Public Ways Excluded from Tax for Actual Incorporated Entities, except Electric & Gas Distribution Corps 59:18(5)
- LLCs treated as Business Corps, Electric & Gas Distribution Corps Taxable on Poles & Wires over Public Ways

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Slide 11

**Business Corporations**  
59:5(16)(2)



- Business Corporations Taxable for Machinery Used in Conduct of Business
- Business Corporation Must Be An Endeavor of Labor for Profit or Gain
- Machinery is a Mechanical Device with Independent Moving Parts or its Electronic Equivalent
- Need not be Actually Used if it is Capable of Use in the Business




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Slide 12

**Exemptions for Business Corporations**

- Exempt Except Poles, Wires, Underground Conduits, Pipes & Machinery Used in the Conduct of the Business
- Also Exempt for Machinery if:
  - Stock in Trade
  - Used Directly in Laundering & Dry Cleaning
  - Used Directly in Refrigeration of Goods & Air Conditioning Premises
  - Used Directly in Selling, Purchasing, Accounting or Administrative Functions






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Slide 13



### Exemptions for Business Corporations - continued

- Stock in Trade Means Sold or Leased in Usual Course of Business & Excludes Financed Sale & Consignment Goods
- Machines used to Sell Goods are Exempt, but not those Providing Entertainment or Service
- Accounting & Administrative Functions Means In-house/Record Keeping




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Slide 14



### Exemptions for M Corporations 59:5(16)(3)

- Manufacturing Corps Exempt for Personal Property, Including Machinery, Poles, Wires, Conduits & Pipes
- M Classification Requires Application to DOR on or before January 31
- Manufacturing transforms raw or finished materials through human skill / knowledge into something with a new nature/name/use
- Not Construction, Breeding, Information
- Must be Substantial
- Applies to Foreign & Domestic



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Slide 15



### Local Option R&D Corp Exemptions 59:5(16)(3)

- Cities & Towns May Adopt Local Option Exemptions for R & D Corps by 7/1
- M Corp Exemptions to R&D Corps
- R&D Includes Experimental & Lab Activities to Develop New & Improve Existing Products
- 2/3 Receipts or 2/3 Expenditures
- Classified by DOR (Form 355RD)
- Must Notify DOR of Acceptance



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Slide 16

**Exemptions for Utility, Financial Institution & Insurance Corporations**  
**59:5(16)(1)**

- Taxed for Poles, Wires, Underground Conduits, Pipes & Machinery Used in Manufacture or Supply/Distribution H2O
- Electric, Gas, Telco, Water, RR, Canal
- New Definition of Financial Institution Includes Mortgage Cos., Subsidiaries
- Foreign Insurance Companies Get Exemption Only if Reciprocity



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Slide 17

**Limited Liability Companies**

- LLC that Elects to be Treated as Partnership or Disregarded Entity for Federal Tax Purposes (Except with S Corp Single Member) Is Taxable on All Personal Property
- LLC that Elects to be Treated as Corporation for Federal Tax Purposes & Single Member LLC Electing to be Treated Federally as Disregarded Entity & Whose Single Member is an S Corp Taxable as Business Corps on Machinery Used in the Conduct of Business



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Slide 18

**Optional Minimum Value Personal Property Assessment 59:5(54)**

- Local Acceptance Required
- Minimum Value Cannot Exceed \$10,000 (May be Modified)
- Forms of List Required in Order for Assessors to Ascertain Value
- Failure to Submit Form Does Not Prohibit Exemption if Value Below Minimum



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Slide 19

**Filing Forms of List - 59:29**  
**State Tax Forms 2, 2HF & 3ABC)**

- List Taxable Prop. as of 1/1 by 3/1
- Assessors May Allow Filing No Later Than 30 Days After Bill Issued
- Penalty for Late Filing
- No Abatement W/O Filing
- Statement Under Oath
- List is Confidential
- Filer Need Not List Value
- Non-Profits List Exempt Property

The following is a list of my personal property subject to taxation as of 1/1/03:

Signed under the pains & penalties of perjury, 3/1/03

M.J. [Signature]

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Slide 20

**Abatement Procedures**

- Overvaluation Abatement Processed in the Same Manner & Form as Real Estate
- Abatement for Inability to Pay May Be Processed by Assessors Upon Request of Collector without DOR Approval - 59:71
- Other Abatements after Filing Deadline Must Be Authorized by the Commissioner of Revenue - 58:8

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Slide 21

**Valuation of Pipelines - 59:38A**

- Commissioner Values Pipelines of more than 25 miles in length owned by Entity Other Than Gas or Electric Co.
- Returns Filed by January 31
- Certification by June 15
- Right to Appeal to ATB by July 15

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Slide 22



### Valuation of Telephone Companies - 59:39-42

- Commissioner Values Personal Property of Telephone & Telegraph Companies (Telcos)
- Cable/Broadcast TV & Radio Not Telcos
- Multi-Service Telecoms = Telcos if Telephone Service Substantial (Form 5941 Appendix)
- Wireless Not Telcos? (BAMM ATB Case)
- Corporation Taxed on Poles / Wires on Private Property, Conduits, Wires & Pipes in Public Ways & Private Property, & Electric Generators

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Slide 23



### Valuation of Telephone Companies

- Partnership/LLC (& Electric Co.) Taxable on Poles & Wires in Public Ways
- Partnership/LLC Not Filing Federal Corp Return Taxable on All PP
- LLC Electing to File Fed Corp Return, & Single Member LLC Disregarded Federally, with S Corp Member, Taxed on Machinery Used in Conduct of Business
- Returns - 3/1; Cert - 5/15; Appeal - 6/15

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Slide 24



### Valuation of Personal Property

- Usually Cost Method - Replacement or Reproduction as Appropriate
- Pricing Manual Often Used
- Depreciation Based on Age, Condition and Quality
- Residual Use Value Generally 20-30% - But May Be Less
- Must Document Depreciation

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## **EXERCISE PERSONAL PROPERTY**

**Answer the following questions.**

John Jones rents a warehouse and runs a bowling alley at the site. He purchased the lanes, pins, bowling shoes, balls, automatic ball returns, pin setters, cash registers, and other machinery used in that part of the business. The lanes were installed in sections, bolted to each other and the cement warehouse floor. They were originally installed at another building, from which they were unbolted, removed, and trucked to the warehouse site.

Jones and Jane Smith, as partners, operate a soda fountain at the alley and lease all the appliances and equipment for that operation from a leasing corporation. The partners have the right to purchase that equipment for \$1 at the end of a 5-year lease. The equipment has a useful life of ten years.

1. Are the lanes personal property or real estate?
2. Is Jones taxable for the lanes? pins? balls? shoes? ball returns? pinsetters?
3. Is Jones & Smith partnership taxable for the soda equipment?



## EXERCISE ANSWER PERSONAL PROPERTY

John Jones rents a warehouse and runs a bowling alley at the site. He purchased the lanes, pins, bowling shoes, balls, automatic ball returns, pin setters, cash registers, and other machinery used in that part of the business. The lanes were installed in sections, bolted to each other and the cement warehouse floor. They were originally installed at another building, from which they were unbolted, removed, and trucked to the warehouse site.

Jones and Jane Smith, as partners, operate a soda fountain at the alley and lease all the appliances and equipment for that operation from a leasing corporation. The partners have the right to purchase that equipment for \$1 at the end of a 5-year lease. The equipment has a useful life of ten years.

1. Are the lanes personal property or real estate?

**The lanes are personal property, since they were used at more than one location and can be removed without causing significant damage.**

2. Is Jones taxable for the lanes? pins? balls? shoes? ball returns? pinsetters?

**Jones is taxable for all the items used in the bowling alley portion of the business because as a sole proprietor he is taxable on all business personal property.**

**If Jones incorporated and the corporation acquired the personal property, however, the corporation would be taxable on all machinery used in the conduct of the business, but exempt on non-machinery personalty. In that case, the automatic ball returns and pinsetters would be taxable machinery. The lanes, pins, shoes and balls are not machinery and would be exempt. The cash registers are considered machinery directly used in a selling, purchasing, accounting and administrative function and are not considered machinery used in the conduct of business. They are exempt.**

3. Is Jones & Smith partnership taxable for the soda equipment?

**Jones & Smith partnership is taxable for the soda equipment because the partnership is the owner of the equipment and is entitled to no exemptions. While the leasing corporation would be exempt for its inventory as stock in trade, the lease to the partnership is not a true lease, but an installment or financed sale.**

